

City of Littleton

Minutes of Proceeding

Littleton Licensing Authority

February 22, 2010

The Littleton Licensing Authority met in a special session on Monday, February 22, 2010, at the Littleton City Center, 2255 West Berry Avenue, Littleton, Colorado.

THOSE PRESENT: Anthony Gallagher - Chairperson
Bill Bradish - Vice Chairperson
Susan Price - Authority Member
Donovan O'Dell - Authority Member
Earl Gunia – Authority Member
Victoria England - Authority Member
John Cole - Authority Member

THOSE ABSENT: None

ALSO PRESENT: Kirsten Crawford – Deputy City Attorney
Tricia McCarthy – Prosecuting Attorney
Richelle Work - Deputy City Clerk
Russ Hoffman – Police Detective

1. **CALL MEETING TO ORDER**

Chairperson Gallagher called the meeting to order at 7:00 p.m.

2. **ROLL CALL**

Upon a call of the roll, seven members were present. A quorum was declared. The following business was transacted.

3. **MINUTES** - None

4. **AGENDA**

Action: **Approved as submitted**

5. **SETTING NEIGHBORHOOD BOUNDARIES AND SCHEDULING APPLICATION HEARINGS** – None

6. **CONSIDERATION OF OTHER APPLICATIONS AND REQUESTS**

(a) **MODIFICATION OF PREMISES** - None

(b) **TRANSFER OF OWNERSHIP** - None

(c) **MANAGER'S REGISTRATION** - None

(d) **SUMMARY SUSPENSION AND SHOW CAUSE HEARING**

- a) BROADWAY WINE & LIQUOR, INC.
DBA: BROADWAY WINE & LIQUOR
7945 SOUTH BROADWAY

Authority Chairperson Gallagher stated this was for a hearing on a Summary Suspension and Show Cause hearing on Police report #2010000426, dated January 22, 2010.

Attorney McCarthy presented Exhibits A-C for admission by the Authority. She stated there was a stipulation as to the facts of the case, but has not reached a stipulation for sanctions or punishment. The licensee through their attorney would like to be heard on that matter.

Kris Hoeltgen, attorney for licensee, appeared before the Authority. She stated that the business is under contract for purchase, and submitted an asset purchase agreement, letter from the property management company, and in irrevocable power of attorney, these were marked as Exhibits D-F. Jesse Vance, principal of Jessheri Corp, was also present. Ms. Hoeltgen stated that Jessheri Corp. is in the process of purchasing Broadway Wine & Liquors and closing is scheduled for March 5.

It was moved by AUTHORITY MEMBER BRADISH, seconded by AUTHORITY MEMBER GUNIA TO ADMIT EXHIBITS A-F.

Ayes: Authority Members Gallagher, Bradish, Cole, Gunia and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

Saba Hagos has been registered as the manger, as of February 19, 2010, and has operated liquor store before. She is the sister to Mr. Ghebremedhin. Ms. Hagos stated that she has been working there on-and-off for two years, but was officially hired on 2/19/10 as the manager, and she has been working there since before violation on January 21.

Attorney Hoeltgen stated that the existing contract on purchase of the business is set to close on March 5. They are waiting for a final lease and would like the Authority to allow for training of the new owners in the store before closing on the contract. She stated that this is for a cash purchase and there will not be any bank loan.

Authority Member Price stated that the paperwork says there is a loan for the existing liquor stock.

Mr. Vance stated that the current owner is carrying the loan for the existing liquor stock.

Authority Member Cole stated that if that loan defaults, what happens to the ownership.

Attorney Hoeltgen stated that it would have to be an unsecured note for the liquor stock.

Authority Member Gunia asked what would theoretically happen to this sale if the Authority decided to revoke the license.

Attorney Hoeltgen stated that it would be impossible to sell the business without an existing liquor license and the current buyer would not be able to open the business.

Mr. Vance stated that without an existing license, it would be easier to apply for a new license at a different location.

Authority Member Gunia asked why they could not go ahead and take ownership while the store is closed under suspension.

Mr. Vance stated that he has not been in a retail liquor store business and needs time to train and see how the business is run, to meet with liquor distributors, etc.

Attorney Hoeltgen stated that part of the purchase price includes goodwill, ongoing concerned value, and if store is not open, there is no value there for him.

Authority Member Gunia stated that the buyer is asking the Authority to go on goodwill in approving this, but then the buyer could decide not to purchase anyway.

Mr. Vance stated that he would lose \$5,000 if he backs out of the sale.

Authority Member Gallagher stated the he does not want to financially devastate anyone, but that he does not want Mr. Ghebremedhin or anyone from his family working in the store. He is recommending that the store stay closed until the purchase and closing is complete. He stated that the buyer could hire Ms. Hagos to do some training in the interim, but not have the store open until the closing is complete.

Attorney Hoeltgen stated that the longer store stays closed, the longer the inventory degenerates, and then it becomes another issue with the value of the existing liquor stock.

Authority Member Price stated that the sooner the buyer has the transfer application in place, the sooner they can operate.

Authority Member Gunia stated that the store would not reopen under the current ownership, but could open under new ownership once the closing is complete and transfer application submitted.

Attorney Crawford stated that this is all presuming that the Authority makes a motion to the proposed violation, and will take into consideration if sale does not go through by the date proposed.

Attorney McCarthy stated that her concern is that if the sale does not go through on March 5, would this be an indefinite suspension or what will happen. It may take longer for the sale to go through.

Authority Member Gallagher stated that licensee's privilege is indefinitely suspended or revoked, depending on the outcome of the current sale of the business.

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Authority Member Cole asked if Mr. Ghebremedhin knows that the loan on the existing stock is unsecured.

Attorney Hoeltgen stated that she does not know if he knows that, but that is what is going to be required in order for this sale to go through.

Authority Member Bradish stated that he does not think the security of the loan is material to this hearing. If the loan defaults, the store closes.

Authority Member Price stated that a revocation does not go with a specific person, but with the corporation that owns the business.

Authority Gallagher stated that the Authority could not hold a new licensee responsible for the old licensee's problems.

Attorney Hoeltgen stated that Mr. Ghebremedhin gave an irrevocable power of attorney to Ms. Hagos to run the store.

It was moved by AUTHORITY MEMBER GUNIA, seconded by AUTHORITY MEMBER GALLAGHER THAT THE AUTHORITY FIND THAT BROADWAY WINE & LIQUOR, INC., DBA: BROADWAY WINE & LIQUOR, 7945 SOUTH BROADWAY, LITTLETON, ARAPAHOE COUNTY, COLORADO BY ADMISSION OF FACTS DID VIOLATE COLORADO REVISED STATUTES 12-47-901(1)(H)(1), 12-47-901(5)(K)(1), AND LITTLETON MUNICIPAL CODES 3-2-10 (B) AND 3-2-11(A)(2). BASED ON SAID FINDINGS, I MOVE THAT BROADWAY WINE & LIQUOR, INC., DBA: BROADWAY WINE & LIQUOR, 7945 SOUTH BROADWAY LIQUOR LICENSE BE SUSPENDED UNTIL COMPLETION OF THE SALE OF THE STORE TO JESSHERI CORP., AT WHICH TIME A TEMPORARY LICENSE WILL BE ISSUED, AND THAT NOTICES OF SUCH SUSPENSION BE POSTED IN AND OUTSIDE OF THE LICENSED PREMISES IN ACCORDANCE WITH LIQUOR CODE REGULATION 47-600(F). IF THE SALE IS NOT COMPLETE BY MARCH 15, 2010, THE LICENSE WILL BE REVOKED.

Ayes: Authority Members Gallagher, Bradish, Gunia, and Price

Nays: Authority Member Cole

Absent: None

MOTION CARRIED: 4 to 1

(e) CHANGE OF CORPORATE STRUCTURE – None

(f) CHANGE OF LOCATION - None

(g) RENEWAL APPLICATION - None

7. **FINDINGS OF PROBABLE CAUSE AND SCHEDULING SHOW CAUSE HEARING** - None
8. **LICENSE APPLICATION HEARINGS** - None
9. **SHOW CAUSE HEARING – listed under 6 (d)**
10. **GENERAL BUSINESS** - Approval of Rules of Procedure for Licensing Authority

Attorney Crawford stated that the Licensing Authority Rules of Procedure have been updated to reflect the changes to the duties of the Authority and reordering the agenda to include medical marijuana dispensary hearings. She stated that there will be a training session, but it will be held after City Council completes appointments to the Authority, which will probably happen March 16. In May, there will be three meetings to have public hearings on all the applicants for medical marijuana dispensaries.

It was moved by AUTHORITY MEMBER GALLAGHER, seconded by AUTHORITY MEMBER PRICE TO APPROVE THE RULES OF PROCEDURE FOR THE LICENSING AUTHORITY AND FORWARD TO CITY COUNCIL FOR APPROVAL.

Ayes: Authority Members Gallagher, Bradish, Gunia, Cole and Price

Nays: None

Absent: None

MOTION CARRIED: 5 to 0

11. **REPORTS**

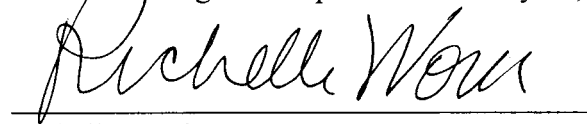
a) **Staff** – None

Assistant City Attorney – None

b) **Authority Members** – Authority Members thanked Tony Gallagher for his service to the Authority.

c) **Chairperson** – None

12. **ADJOURNMENT** – There being no further business, Chairperson Gallagher adjourned the meeting at 7:38 p.m. on February 22, 2010.



Richelle Work

Deputy City Clerk/Recording Secretary